



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

BOSTON, MA 02109-3912

**URGENT LEGAL MATTER - PROMPT AND COMPLETE REPLY IS REQUIRED
CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

MAY 26 2016

Gordie Howe's, Inc.
c/o Christopher P. Howe
1 Harlow Hill Road
Mexico, ME 04257-1507

Re: Request for Information, Docket No. CWA-308-R01-FY16-68
Oil Enforcement, Gordie Howe's, Inc., Hanover, Maine

Dear Mr. Howe:

Our records show that the State of Maine Department of Environmental Protection (Maine DEP) sent you a Notice of Violation (NOV) in September 2015 regarding underground product piping associated with an aboveground oil storage tank located at Gordie Howe's, Inc., 2082 Main Street, Hanover, Maine (the "Facility"). Based on information outlined in the NOV, the Facility contains two aboveground oil storage tanks and associated underground piping used for retail distribution of motor fuel. The NOV was issued due to the company's failure to submit passing annual inspection results for the Facility, including the underground piping system for reporting years 2013, 2014 and 2015. The NOV required the submittal of these annual inspection reports or documentation of the abandonment by removal of the underground product piping. According to Maine DEP, the tanks and piping are currently out of service but there may exist a potential for the Facility to place them back in service.

Sections 308(a) and 311(m) of the Clean Water Act (the "Act"), 33 U.S.C. §§ 1318(a) and 1321(m) authorize the United States Environmental Protection Agency ("EPA") to require any person to provide information needed to determine whether there has been a violation of the Act. Accordingly, Gordie Howe's, Inc. is required, pursuant to Sections 308(a) and 311(m) of the Act, 33 U.S.C. §§ 1318(a) and 1321(m), to respond to the following questions included in Attachment 1 of this Request for Information (the "Request") **within thirty (30) calendar days of your receipt of this Request.**

Answers to the questions shall be sent to:

Alex Rosenberg
Spill Prevention Compliance Officer
U.S. Environmental Protection Agency, Region 1
5 Post Office Sq., Suite 100
Mail Code OES04-4
Boston, MA 02109-3912

Please be advised that noncompliance with the Oil Pollution Prevention regulations constitutes a violation of the Clean Water Act for which both injunctive relief and penalties can be sought.

EPA reserves its right to take further enforcement action pursuant to the Clean Water Act, and other applicable laws, including the right to seek penalties, for any violations detected at the Facility.

Although this letter's emphasis is on compliance with the Oil Pollution Prevention Regulations, your facility may also be subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act. If you are required to have Material Safety Data Sheets for your facility and store 10,000 lbs or more of oil, then you may be required under Section 312(a) of EPCRA to prepare and submit an emergency and hazardous chemical inventory form to the Local Emergency Planning Committee, the State Emergency Response Commission and the local fire department. More information can be found at <http://www2.epa.gov/epcra>. EPA does not waive its right to take additional enforcement action for any violation of EPCRA or of any other federal statute or regulations.

Please be further advised that compliance with this information request is mandatory. Failure to respond fully and truthfully, or to adequately justify any failure to respond, within the time frame specified above, also constitutes a violation of the Clean Water Act subject to enforcement action, including the assessment of civil penalties. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal prosecution under 18 U.S.C. § 1001. If information or documents not known or available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of the response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible, and provide a corrected response.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, the information may be made available to the public without further notice to you.

Enclosed with this information request letter is an information sheet intended to assist small businesses, as defined by the Small Business Administration ("SBA") at 13 C.F.R. Part 121.201,

in understanding and complying with environmental regulations. EPA New England is routinely providing this information to businesses in the course of its enforcement activities, whether or not they are small businesses as defined by the SBA. The Small Business Regulatory Enforcement and Fairness Act ("SBREFA") provides small businesses with the opportunity to submit comments on regulatory enforcement at the time of an agency enforcement activity. The enclosed Information Sheet provides information on this right, as well as information on compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888. Please be aware that availing yourself of this opportunity does not relieve Gordie Howe's, Inc. of its responsibility to comply with federal law and this information request.

Your response to this Request must be accompanied by the certificate that is signed and dated by the person who is authorized to respond to the Request on behalf of the company. The certification must state that your response is complete and contains all information and documentation available to you that is responsive to the Request. A Statement of Certification is enclosed with this letter at Attachment 2.

If you have any questions concerning your compliance with this letter, please contact Alex Rosenberg the Region I Spill Prevention Compliance Officer, directly at (617) 918-1709, or have your attorney contact Jeffrey Kopf, EPA's attorney in this matter, at (617) 918-1796. For your information, EPA has on its website (www.epa.gov/oilspill) a general guidance document on SPCC Plan preparation, including a model SPCC Plan.

Sincerely,



James Chow, Manager
Technical Enforcement Office
Office of Environmental Stewardship

Enclosure

cc: Jeffrey Kopf, Senior Enforcement Counsel, EPA Region 1 (via email)
Alex Rosenberg, Spill Prevention Compliance Officer, EPA Region 1 (via email)
Butch Bowie, Oil & Hazardous Material Specialist II, Maine DEP

Attachment 1

1. Provide a list of all the oil storage capacity at the Facility, both underground and aboveground (including tanks, drums, transformers, oil-filled piping systems, etc.) and the type of oil stored in each container. Indicate each container's age and method of construction (e.g., single or double wall, welded or riveted, steel or fiberglass). Also indicate whether any secondary containment is provided around each container, and, if so, its method of construction (e.g., earth berm, steel wall, concrete block wall, poured concrete wall) and the total volume it can contain. Under 40 C.F.R. § 112.2, "oil" is defined as oil of any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.
2. Provide the date the Facility first started having the capacity to store oil above the SPCC regulatory thresholds set forth in 40 C.F.R. § 112.1(d)(1) (i.e., the SPCC-regulated underground oil storage capacity of the Facility is greater than 42,000 gallons -or- the aboveground oil storage capacity of the Facility is greater than 1,320 gallons).
 - a. Submit a copy of the Facility's most recent revision of its SPCC plan, even if the current determination is that the Facility is no longer subject to the SPCC rule.
3. Provide the date the Facility first began operation and, if different, the date the current owner took over ownership of the Facility. If the Facility is operated by an entity other than the owner, also include the date the current operator took over operation of the Facility.
4. Referencing the list provided in response to question 1, provide answers to the following questions with regard to each respective container:
 - a. The date the Facility most recently took the container out of service;
 - b. An estimate of the product left in the container at the time it was most recently taken out of service;
 - c. If subsequent to the container being taken out of service, product has been removed provide a current estimate of the amount of product remaining in the device;
 - d. The date on which the container was permanently closed¹;
 - e. Describe all steps taken to permanently close the container, including any actions to remove product from the container; and

¹ Permanently closed means any container or facility for which (1) All liquid and sludge has been removed from each container and connecting line; and (2) All connecting lines and piping have been disconnected from the container and blanked off, all valves (except ventilation valves) have been closed and locked and conspicuous signs have been posted on each container stating that it is a permanently closed container and noting the date of closure. Note: the preceding text is an excerpt of the SPCC rule. Refer to 40 C.F.R. § 112.2 for the full text.

- f. Describe any plans to place the container back into service including the scenario/factors for which it is anticipated that this re-servicing would potentially occur.

5. If you have determined that your Facility is no longer subject to the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112, and is therefore not required to have an SPCC Plan, provide an explanation supporting such determination, including appropriate documentation.

6. Provide a statement detailing the actions taken by your Facility to correct the deficiencies specified in the NOV issued by Maine DEP in September 2015; and

7. Provide a list of additional facilities owned by the owner of the inspected Facility, including the name, location, and total number of employees at each facility. If the inspected Facility is operated by an entity other than the owner, a list of additional facilities operated by the operator of the inspected Facility, including the name, location, and total number of employees at each facility. For each additional facility listed, please provide the following information:

- a. Provide the aggregate shell capacity of all above ground oil tanks and containers equal to or greater than 55 gallons in size at each facility;
- b. Explain whether each additional facility is subject to the Oil Pollution Prevention Regulations (40 C.F.R. Part 112);
- c. For those facilities that are subject to the Oil Pollution Prevention regulations indicate whether the facility has a written, Professional Engineer-certified SPCC Plan or a written, self-certified SPCC Plan, and whether the SPCC Plan is being fully implemented at the facility; and
- d. For facilities that are required to have an SPCC Plan but either do not have one or are not fully implementing their SPCC Plan, provide a time frame for when each facility is expected to be in compliance with the Oil Pollution Prevention Regulations.

Attachment 2

Statement of Certification for Gordie Howe's, Inc.

(To be returned with Response to Information Request)

I declare under penalty of perjury that I am authorized to respond on behalf of Gordie Howe's, Inc. I certify that the foregoing responses and information submitted were prepared under my direction or supervision, and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

By _____
(Signature)

(Print Name)

(Title)

(Date)



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Small Business Programs

www.epa.gov/smallbusiness
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman

www.epa.gov/sbo or 1-800-368-5888
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

EPA's Compliance Assistance Homepage

www2.epa.gov/compliance
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair
ccar-greenlink.org/ or 1-888-GRN-LINK

Chemical Manufacturing
www.chemalliance.org

Construction
www.cicacenter.org or 1-734-995-4911

Education
www.campuserc.org

Food Processing
www.fpeac.org

Healthcare
www.hercenter.org

Local Government
www.lgean.org

Metal Finishing
www.nmfrf.org

Paints and Coatings
www.paintcenter.org

Printing
www.pneac.org

Ports
www.portcompliance.org

Transportation
www.tercenter.org

U.S. Border Compliance and Import/Export Issues
www.bordercenter.org

EPA Hotlines, Helplines and Clearinghouses
www2.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Clean Air Technology Center (CATC) Info-line
www.epa.gov/ttn/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center
www.epa.gov/superfund/contacts/infocenter/index.htm or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline
www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center
www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) - www.epa.gov/opptintr/ppic or 1-202-566-0799

Safe Drinking Water Hotline - www.epa.gov/drink/hotline/index.cfm or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone/comments.htm or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.epa.gov/sbo/507program.htm

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www2.epa.gov/enforcement/small-businesses-and-enforcement

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www2.epa.gov/compliance/epas-audit-policy

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.